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The Solicitors' Journal

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Current Topics.

Middlesex Grand Jury.

AMONG the other proposals put forward in the interim report of the Committee appointed by the Lord Chancellor and presided over by Lord HANWORTH to consider the business of the courts is one for the abolition of the grand jury, but it will have been observed that from this suggestion there is excepted the Middlesex grand jury, which, according to the report, "stands on a different footing." This exception would appear to have created some little wonderment among those concerned with the administration of criminal law. Grand juries are at the present time summoned periodically for the Middlesex Quarter Sessions at the Guildhall, Westminster, and if throughout the country it is intended that the grand jury should be disestablished, why, some have been asking, should it be retained in the case of prosecutions at those sessions? The misconception involved in this question is not surprising, for comparatively few know anything of this body, which is *par excellence* the grand jury of Middlesex—an entirely different institution from that which is periodically charged by the chairman of the Middlesex Sessions on the subject of the bills presented to them. In his "History of the Criminal Law of England," the late Sir FITZJAMES STEPHEN raises the question how far, at different periods of its history, the Court of King's Bench was in practice as well as in theory a court for the trial of common criminal cases, and he points out that till the year 1872 the grand jury of Middlesex used to be summoned every term, but as indictments were so rarely preferred before them, in that year, the Act 35 & 36 Vict. c. 52, after reciting that "inconvenience has been found to arise by reason of the unnecessary summoning of grand juries in the county of Middlesex," proceeded to enact that "from and after the passing of this Act it shall not be necessary to summon a grand jury of Middlesex to come before the Queen at Westminster in any term unless the Master of the Crown Office has before the fourth day of that term received notice of some business intended to be brought before them, and it shall be the duty of the said Master to give notice to the sheriff accordingly." This provision, it will be noted, clearly differentiates between this grand jury and that summoned to consider the bills at quarter sessions; it is the grand jury of Middlesex "to come before the Queen at Westminster"—that is, at Westminster Hall, where the courts then sat. This special grand jury of Middlesex was summoned in the trial at bar of ARTHUR LYNCH in 1902 and again in that of ROGER CASEMENT in 1916, and is the one recommended for retention in similar state trials.

Infringement of Copyright by Wireless.

TWO arguments were raised by the defendants in *Performing Rights Society, Ltd.* v. *Hammond's Brewery Co. Ltd.* (*The Times*, 6th April), in which judgment was given for the plaintiffs. The defendants had by means of a radio receiving set rendered audible to their customers at an hotel certain musical works broadcast by the British Broadcasting Corporation, licensed to do so by the plaintiffs, in whom the right of performance was vested. It was said, first, that the act of making audible the musical works was not a performance at all, or at any rate, it was not furnished by the defendants; the audition was part and parcel of the broadcast and not a further performance entitling the plaintiffs to royalties additional to the fees paid them by the B.B.C. Secondly, if they were wrong on that point, it was said that the plaintiffs had by licensing the broadcast put it out of their power to prevent people with receiving sets and loudspeakers from using them for the purpose of making audible sounds to anyone they pleased. MAUGHAM, J., thought that both sides had erred, if at all, in the direction of being too acute and too ingenious. The Copyright Act, 1911, had been passed with a single object—namely, for the benefit of authors of all kinds, whether the works were literary, dramatic or musical, and the subject-matter with which the Act dealt was of a very practical kind. It was not necessary in answering the first question to go into great detail: the process by which the loudspeaker—a translating device converting electrical current into sound vibrations—was essentially a reproduction which was as much a "performance" as was the reproduction of a musical piece by a gramophone. The fact that there was no power of selection was irrelevant to the determination of this question. With regard to the second point, the defendants could not justify their action by saying that the B.B.C. broadcast the musical works. Translating s. 2 of the Copyright Act, 1911, which provides that copyright in a work "shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright," into the subject matter of the action, the copyright in the musical works had been infringed by the defendants, who had performed the works in public without the consent of the owners. Neither damages nor an injunction were asked for, and his lordship, therefore, made a declaration giving effect to the decision.

Common Employment.

THE defence of common employment was successfully raised in *Knott* v. *London County Council* (*The Times*, 4th April), where a cleaner claimed damages against the defendants in respect of injuries sustained through having been bitten by a dog belonging to a schoolkeeper employed at the same place. The county court judge found that the dog to the knowledge of the schoolkeeper was prone to attack mankind, and that an action brought against him would have succeeded, but, as he and the plaintiff were both employed by the defendants, no action lay against them. An appeal from this decision

was dismissed by a Divisional Court consisting of ACTON and GODDARD, JJ. "When several workmen," said LORD CRANWORTH, in *Bartonshill Coal Co.* v. *Reid*, 3 Macq. 266, "engage to serve a master in a common work, they know, or ought to know, the risks to which they are exposing themselves, including the risks of carelessness, against which their employer cannot secure them, and they must be supposed to contract with reference to such risks." The rule, as is pointed out in "Salmond on Torts," 7th ed., p. 126, is an application of the maxim *volenti non fit injuria*, but it is not, as in other cases where the maxim is applied, a presumption of fact but one of law only excluded by an express agreement between master and man. The doctrine was recently considered in *Fanton* v. *Denville* [1932] 2 K.B. 309, where an exhaustive review of the authorities will be found. The Court of Appeal there held that an actor, who had sustained injuries by the defect of plant used in an execution scene, was precluded by the rule from obtaining damages against the defendant, who did not know the particular scene was to be performed, and had delegated the production of plays performed on tour to competent persons. In *Knott* v. *London County Council* it was observed in response to the argument that the knowledge of the schoolkeeper was the knowledge of the defendants, who were accordingly liable as knowingly harbouring on their premises a dangerous animal, that if the action had been brought by a stranger they would not have been in a position to deny knowledge of the dog's propensity. But this did not apply where the plaintiff was in common employment with the servant who had the knowledge. Nor could it be said that knowledge of any servant whose duty it was to communicate the information affected the corporation, for a servant could not found an action upon a fellow-servant's default. Moreover, *North* v. *Wood* [1914] 1 K.B. 629, showed that the responsibility lay on the person who had control of the dog. In that case a father, who allowed his daughter to keep on the premises a dog known by him to be savage, was held not liable for the damage it did. No cause of action would have been established even if *scienter* in the defendants had been proved. Finally, the case was not analogous to those where the defence of common employment was excluded by the consideration that an absolute duty was imposed on the employer towards his servants. The proposition that in the case of injury from a savage animal the plaintiff had a cause of action apart from negligence must be considered in the light of the fact that the owner of a vicious animal does not commit a breach of duty merely by keeping it on his premises, though he keeps it at his peril and, in any event, *North* v. *Wood* showed that it was the person who had control of the dog, and not the owner of the premises, who was responsible for the mischief.

Every-day Contracts.

IN *The Times*, 15th March, an action is reported from Northampton County Court, the plaintiff being a hairdresser and the defendant the husband of a woman who had made and failed to keep an appointment with the plaintiff for a "permanent wave." This operation, as Judge DRUCQUER found, would take the sole attention of an employee for from three to four hours, and the plaintiff had had to reserve one for the work. His honour, of course, carefully excluded himself from any wide ruling that a few words as to a possible shave for the next day exchanged with a barber would constitute a contract. The barber would in no way inconvenience himself after such a talk, but would be ready for such customers as might appear and take them in rotation. In the case of the permanent wave, however, the assistant deputed for the appointment would presumably be debarred from the service of other customers during the time arranged. Unquestionably, a broken appointment with a doctor or dentist would give rise to a claim for services retained, though, of course, in practice there is considerable give-and-take between professional men and their patients. Judge DRUCQUER holds that retention of a tradesman's or his assistant's services is on the same footing. The question whether a completed contract exists must, of course, ultimately depend on the intention of the parties as well as the conduct. In a footnote on p. 4 of the ninth edition of "Pollock on Contract," the learned author discusses the situation arising if A invites B to dinner and forgets all about it. B may have hired a taxi to A's house, and his belated dinner at a restaurant may cost more than the food he would have had at home if A had not disturbed his arrangements. Nevertheless, B could not sue A for his loss on contract in our courts, for neither had any intention of entering into a legal relation. That the law may be different elsewhere appears from our note "Damages for Slighted Hospitality," 73 SOL. J. 737. This was the converse case to that suggested above, for the host had everything ready, but the guests who had accepted the invitation did not appear. A French court awarded the former damages against the latter, if in contract presumably for the wasted food, though, as we pointed out, the insult involved in ignoring the invitation might have been deemed a tort. If invitation or acceptance were given with the full intention of deceiving the other party it may be suggested that an action for such deceit would lie for provable damage, as for the recovery of the railway fare in *Wilkinson* v. *Downton* [1897] 2 Q.B. 57. Incidentally, the report in *The Times* throws no light on the question whether a permanent wave should be deemed a necessary within the decisions as to pledging a husband's credit.

Reform of Procedure: A Minor Example.

THE consensus of opinion that litigation is too costly cannot be ignored by the profession, and its members should seek all possible opportunities of making suggestions for the simplification of procedure. A small one may be here advanced. Under s. 5 of the Companies Act, 1929, a company may by special resolution alter its Memorandum of Association with the consent of the court, and by s. 35 it may on adopting a similar procedure reduce its capital. Section 334 creates a similar requirement for companies which desire to substitute Memorandum and Articles for a Deed of Settlement. In each case, of course, the court must be satisfied, before it accedes to the necessary petition presented to it, that the requisite special resolution has been passed. The formalities of this are set forth in s. 117 of the Act, and involve notices to shareholders. Precedents of the affidavit evidence to support such a petition are given in the text-books, e.g., "Palmer," 14th ed., vol. I, p. 1087; "Stiebel," 3rd ed., vol. I, p. 1176; "Daniell's Chancery Forms," 7th ed., p. 949; "Annual Practice," 1933, p. 2579. In each of these precedents the secretary of the company elaborately deposes to service of notice with proper formalities by placing copies into envelopes duly addressed and prepaid, etc., and posting the same or causing the same to be posted at the Post Office receiving house at X-street in the district of Y, etc. Section 120 of the Act nevertheless provides that the company shall keep a minute-book of the proceedings at general meetings, that a minute if signed by the chairman shall be evidence of the proceedings, and that, where a minute has duly been made, then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened and all proceedings thereat to have been duly had (sub-s. (3)). This sub-section appears to be specially directed to simplify proof of special resolutions and other agenda, and the precedents above to be framed as if it did not exist. It also appears that the evidence of postage, etc., is entirely redundant, though, of course, the secretary should be able to prove due postage, etc., if challenged. The proper evidence, having regard to s. 120, would seem to be the secretary's affidavit exhibiting the minute-book with the minutes of the special resolution signed by the chairman, and the verification of the latter's signature. The rest follows from the section.

Protective Trusts.

The form given below has, in response to requests from readers, been settled by the writer of "A Conveyancer's Diary." The reader is referred to Articles appearing under that head in our issues for 11th, 18th and 25th February, and 4th, 11th, 18th and 25th March. It is hoped that the annotations will prove useful, but they are not exhaustive.

( ) Subject as hereinbefore declared the income accruing during the life of the Beneficiary shall be held upon the trusts following, namely :—

(i) Upon trust to pay the same to the beneficiary unless and until he shall do or suffer some act or thing (other than any exercise or any consent to any exercise of any power of appointment or advancement(1)) or some event shall happen [either before or after my death(2)] whereby if the said income were payable to the beneficiary absolutely during his life he would be deprived of the right to receive the same or any part thereof or the same or any part thereof would become incumbered or vested in or payable to some other person provided that no trustee shall be affected by any such act, thing or event before he receives express notice thereof.(3)

Provided always that if the Beneficiary shall be female the income payable to her under the trusts of this paragraph shall belong to her without power of anticipation and the foregoing trust in her favour shall not fail or determine by reason of any act or event which if such income were hereby made payable to her during the whole of her life would owing to the existence of such restraint on anticipation fail to affect any part of the income accruing after such act or event.(4)

(ii) Subject as aforesaid upon trust during the life of the Beneficiary and (as to moneys in hand or accrued at the death of the Beneficiary) within three years after the death of the Beneficiary(5) to pay the said income to or apply the same for or towards the discharge of all or any debts or alleged debts(6) or the maintenance and personal support or otherwise for the benefit of all or such one or more to the exclusion of the other or others of the persons mentioned in paragraph (iii) of this sub-clause if more than one in such shares as the trustees (or a majority of the trustees(7)) shall from time to time in their absolute discretion think proper and so that any payment or application to or for any particular person or purpose shall continue only so long as the trustees or a majority of the trustees shall think fit.

(iii) The objects of the foregoing discretionary trust are the Beneficiary and the husband or wife if any of the Beneficiary and the children and remoter issue of the Beneficiary's parents for the time being in existence whether minors or adults and the person or persons in whose company or under whose care or control or by or with whom the Beneficiary may from time to time be residing travelling or employed and such other person or persons as the Beneficiary with the previous consent in writing of the trustees or a majority of the trustees shall from time to time in writing declare to be an object or objects of such discretionary trust [and the person or persons who would have become entitled to the capital of the said trust property under the statutes for the distribution of the personal estates of intestates for the time being in force had the Beneficiary died immediately before the payment or application in question possessed of such capital intestate domiciled in England and without ever having been married].(8)

Provided always that in no circumstances shall [the settlor or(9)] any person who is for the time being a trustee hereof be an object of such discretionary trust.

(iv) The trustees are requested but not required to treat the Beneficiary and the spouse and issue of the Beneficiary as the primary objects of the foregoing discretionary trust and so far as practicable to pay or apply in each year the whole of the income for that year.(10)

(1) See *Re Hodgson* [1913] 1 Ch. 34 ; *Re Stimpson* [1931] 2 Ch. 77. *Ante*, p. 95.
(2) See *Trappes* v. *Meredith* (1871), 7 Ch. 248 ; *Re Evans* [1920] 2 Ch. 304. *Ante*, p. 110.
(3) As to the effect of annulment of bankruptcy, see *White* v. *Chitty* (1866), 1 Eq. 372 ; *Lloyd* v. *Lloyd* (1866), 2 Eq. 722 ; *Re Parnham's Trusts* (1872), 13 Eq. 413 ; *Ancona* v. *Waddell* (1878), 10 Ch. D. 157 ; *Metcalfe* v. *Metcalfe* [1891] 3 Ch. 1 ; *Re Loftus-Otway* [1895] 2 Ch. 235 ; *Re Forder* [1927] 2 Ch. 291. *Ante*, pp. 110–111.
Generally, as to what will or will not cause a forfeiture, see *ante*, pp. 120–121, and *Carter* v. *Carter* (1857), 3 K. & J. 617 (Mortgage) ; *Re Crawshay* [1891] 3 Ch. 176 (Agreement to assign life interest) ; *Re Greenwood* [1901] 1 Ch. 887 (Garnishee) ; *Re Tancred's Settlement* [1903] 1 Ch. 715 (Re-settlement) ; *Durran* v. *Durran* (1904), 91 L.T. 819 (Direction to pay creditor out of accrued income) ; *Re Beaumont* (1910), 103 L.T. 124 (Equitable execution) ; *Re Carew's Trusts* (1910), 103 L.T. 658 ; *Loraine* v. *Loraine* [1912] P. 222 (Order in divorce varying settlements).
(4) See *Re Wormald* (1890), 43 Ch. D. 630, and *ante*, pp. 133 and 151.
As to the effect where the settlement is of the settlor's own property, see *ante*, pp. 192–193 ; *Re Burroughs-Fowler* [1916] 2 Ch. 251 ; *Re Johnson, Johnson* [1904] 1 K.B. 134.
(5) It is desirable to allow for interest or dividends in arrear. In this clause there is no trust to accumulate surplus. Unless limited in time it would be void for remoteness (*Re Blew* [1906] 1 Ch. 624 ; *Kennedy* v. *Kennedy* [1914] A.C. 215).
(6) Thus, the trustees need not require proof that the debt is owing or how much is owing.
(7) *Ante*, p. 192.
(8) With regard to this sub-clause, see *ante*, p. 192.
(9) If the settlor is an object of the discretionary trust, estate duty will be payable upon his death, there being a reservation by him of an interest within the Customs and Inland Revenue Act, 1881, s. 38 (2) (*c*) as re-enacted in the Finance Act, 1894, s. 2 (1) (*c*). (See *Attorney-General* v. *Heywood* (1887), 19 Q.B.D. 326 ; *Attorney-General* v. *Farrell* [1931] 1 K.B. 81).
(10) See *ante*, p. 192.

Motor-Coach Services: Minister's Powers.

In *R.* v. *Minister of Transport: Ex parte Grey Coaches Ltd.* (reported in *The Times*, 29th March), a Divisional Court, consisting of the Lord Chief Justice and Talbot and Charles, JJ., discharged a rule *nisi* obtained by motor-coach proprietors calling upon the Minister of Transport to show cause why a writ of *mandamus* should not issue directing him to hear and determine, pursuant to the statutes in that behalf, the matter of certain appeals by them against decisions of the Metropolitan Traffic Commissioner made about a year earlier. The facts themselves are of no general interest, but the matter raised questions relative to the position and duty of the Minister of Transport under the Road Traffic Act, 1930, which are of considerable importance. Section 81 of that Act gives a right of appeal to the Minister in connection with public service vehicle licences, road service licences and certificates of fitness ; sub-s. (2) of the same section providing that on any such appeal "the Minister shall have power to make such order as he thinks fit." Charles, J., who read the judgment of the court, observed that the fact that an appeal was given plainly laid upon the Minister the duty of considering any reasons put forward by the appellants for saying that the Commissioner's decisions were wrong. Subject to that, the statute left the procedure entirely to his discretion, and he was empowered to make the order as provided by sub-s. (2). It was alleged for the rule that the Minister had fettered his discretion as an appeal tribunal by adopting a report of the Amulree Committee, which propounded certain principles upon which the London traffic problem should be dealt with, that he had laid down for himself rules which prejudiced the question which he had to determine, and that he had decided certain points of law without hearing arguments against them. The learned judge pointed out that it would have been absolutely impossible to deal with a series of applications for road service licences in the London area without at an early stage coming to some conclusions with regard to the principles to be observed. It was in the interest of all parties that this should be done as early as possible, and that the conclusions should be embodied in a document accessible to all concerned. The suggestion involved in the appellants' argument that a company was entitled to have the whole question of motor-coach licences in London treated as a *tabula rasa* and debated afresh on each application for a licence and on each appeal from the Commissioner was negatived. The position so created would be impossible and incompatible with fair treatment as between different applicants. It was a fallacy to apply to a question of policy to be determined by an executive Minister the principles governing disputes between parties as to their legal rights.

Wide powers were conferred by the Act upon the Minister to regulate traffic, because Parliament thought that without regulation the state of things was intolerable. There was a strong presumption against the court adding to the conditions laid down by the Act for their exercise. The Minister had full right to confer with and obtain advice from anyone whom he thought likely to help him. The first report of the Amulree Committee was described as an " elaborate and able survey " of the London traffic problem. " How was it," the court asked, " in excess of the legal powers of the Minister to consult the three members of the Amulree Committee on such a matter as that in question in the present case ? How did he err if, instead of consulting them in his room in Whitehall, he asked them to hold public sittings and hear what was said from different points of view before giving him their advice ? " While in so far as he was entrusted by Parliament with the decision of any particular case he must keep the decision in the last resort in his own hands, it was open to him to consult others as to the general principles to be regarded and, if he agreed with their conclusions, to adopt them and say that he did so. The complaint that the Amulree Committee acted on a memorandum by the Assistant Commissioner of Police not submitted to the parties who appeared before the Committee really involved the proposition that neither the Minister nor anyone he consulted in the performance of his executive functions could consult anyone without submitting the advice, whether written or verbal, to the criticism of every one else interested in the matter. " Government," the court said, " would be impossible if such a doctrine were admitted."

Finally, it was held that there was no evidence that any " picking-up " point for motor-coaches had been, or would be, refused merely on the ground that the street was " restricted " under the London Traffic Act, 1924, s. 7 of which empowers the Minister by order to limit or prohibit omnibus traffic along the street so declared. It could not, therefore, be said that the Minister had fettered his discretion in determining appeals by refusing to motor-coach companies " picking-up " facilities in such streets.

A "New Procedure" Problem.

A RECENT case in the New Procedure List was not without interest from a " practice " point of view. It was a claim for a declaration as to the rights of the parties, who were landlord and tenant, and there were further claims for rent and damages for breach of covenant.

It is clear from the New Procedure Rules that the claim for the declaration might well be a suitable case for the New Procedure List. What of the claim for damages ? The plaintiff's solicitor in the case indorsed on the writ of summons a certificate that the action was " fit for the New Procedure " (Or. XXXVIIIA, r. 3), but he so certified in these words, " I certify that this action is fit for the New Procedure with the exception of that part of it which claims damages for breach of covenant."

Not until the action had been tried in the New Procedure List was the peculiar form of the certificate noticed. It had had the effect, however, of getting a perfectly ordinary non-jury action tried many months out of its turn and ahead of probably dozens of similar actions which had been commenced long before it.

It seems plain that practitioners should very closely scrutinise these certificates, and it might be advantageous if the Rules were to be amended so as to provide for a certificate, the form of which is not to be altered.

Bearing in mind that r. 3 says, in terms, that the solicitor for the plaintiff must certify that " in his opinion the action is fit for the New Procedure," not merely a *part* of the action, and that " no writ of summons marked with the words ' New Procedure ' shall be issued unless it is so indorsed," interesting problems would seem to arise.

What actions are really fit for the New Procedure ? The Rules do not say specifically, although they exclude certain actions for libel, slander, fraud, and so on (r. 1 (1) and (2)). What is the penalty on a solicitor who wrongfully, or carelessly, certifies that an action is fit for the New Procedure ? Under r. 8 (2) (*d*) the judge may order the action to be transferred from the New Procedure List to the ordinary list, and he has under r. 8 (4) all the powers which a court or a judge has in respect of an action in the ordinary list, so that, presumably, he could mark his disapproval of a solicitor's conduct by his order as to costs. It would appear better, however, if some penalty were provided by the Rules in order the more forcibly to impress upon practitioners the necessity for care.

Is a party to be permitted to split an action so as to get part or parts of it into the New Procedure List, and therefore to ensure a speedy decision in respect of the part or parts ? Had the action in question been tried in the ordinary list twelve months probably would have elapsed before it could have been heard. It is a manifest injustice to other litigants if a party can contrive under the New Procedure Rules to get his case ahead of theirs, and obtain a decision on part of his case which may effectually decide all his rights. The Rules, as we understand them, appear to be open to grave abuse, and it were well that practitioners should insist upon their being closely observed, in order that the Rules Committee be enabled, on information, to consider their amendment and possible amplification. The New Procedure was not, in our view, ever intended to approximate to that form of Chancery practice in which it is possible to obtain a judgment in the middle of the proceedings.

Company Law and Practice.

A COMPANY'S LIEN ON ITS SHARES.

CLXXVI.

NOT every shareholder is aware that his company has or may have an equitable charge on his shares, a charge which may extend not merely to moneys payable in respect of his shares, but also to all debts to the company which he may incur. This charge or lien will not exist in the absence of agreement, but some agreement of this nature is usually found in articles of association. Thus cl. 7 of Table A in the 1929 Act provides as follows :—

> " The company shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company ; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company's lien, if any, on a share shall extend to all dividends payable thereon."

It will be noticed that under this clause the lien does not attach to fully paid shares. The reason is that if quotation on the Stock Exchange is desired there must be complete freedom of transfer of fully paid shares, and this will clearly not be the case with shares on which the company has a lien, as by cl. 19 of Table A the directors have a discretion to refuse to register any transfer of shares on which the company has a lien. If quotation on the Stock Exchange is not desired there is no reason why cl. 7 should not be modified and the lien made to attach to fully paid shares ; and if there is to be modification of cl. 7 and the lien is to be as comprehensive as possible, the relevant clause can make it clear that the lien is to extend to shares held jointly with other persons, and in respect of all debts, liabilities and obligations, whether

the time for payment, fulfilment or discharge has arrived or not. It may also be as well to provide expressly that the lien is to cover joint as well as several liabilities: for example, a shareholder may be a partner in a firm which is indebted to the company, and in such a case the shareholder has a joint liability.

A clause conferring a lien over partly paid shares only can subsequently be altered by special resolution and made to apply to fully paid shares. Even where shares have been already fully paid, such an alteration, if made *bona fide*, will be effective to give the company an enforceable lien: *Allen* v. *Gold Reefs, Ltd.* [1900] 1 Ch. 656. In that case the holder was the only holder of fully paid shares, but this made no difference; the Court of Appeal said that the shares were taken subject to the original articles and to the statutory power of altering them, and there had been no bargain that they should not be affected by subsequent alteration.

Allen's Case shows also that independently of the provisions of any article the lien will be effective not only against the registered shareholder, but also against his personal representatives; indeed, in that case the alteration of the articles was carried out actually after the death of the shareholder.

Clause 7 of Table A expressly extends the lien to dividends, and it has been held that it will equally apply to any assets which in a winding up may come to shareholders in respect of their shares. A company may waive its lien and register a transfer, and the transfer will then be valid; and the clause may well be modified to read that if the company does register a transfer and gives no notice of its claim to the transferee or makes no agreement to the contrary the shares shall be discharged from the lien. But apart from this, you can only get rid of such a lien by a clear agreement to that effect between the member and the company: *Bank of Africa* v. *Salisbury Gold Mining Co.* [1892] A.C. 281.

The security conferred by the lien can be enforced by sale, and cl. 8 of Table A of 1929 gives the company express power to sell. It provides that no sale shall be made unless some sum is presently payable, and fourteen days' written notice has been given, stating the amount and demanding payment thereof. The proviso may well be added that the power shall not be exercised until default has been made for seven days after the notice, as it is not desirable that there should be any suggestion that the company is exercising its powers in a harsh and unconscionable manner.

To effect the sale, cl. 9 empowers the directors to authorise some person to transfer the shares to a purchaser; and, in accordance with the general principles regulating a sale by a mortgagee, the purchaser is not to be bound to see to the application of the purchase money, nor is his title to be affected by any irregularity or invalidity in the proceedings in reference to the sale. This clause may well render it difficult for a shareholder whose shares have been sold without justification to get them back, so that where such a sale is threatened he will be wise to apply for an injunction to restrain the sale; though he will have an action for damages against the company for any such unjustified sale. Clause 10 provides that the company shall apply the purchase money to satisfy the claim and that the residue shall be paid to the person entitled to the shares at the time of the sale.

Even without a provision giving an express power of sale, it is possible that the company would have a power of sale as mortgagee under the Law of Property Act, 1925. In *Everitt* v. *Automatic Weighing Machine Co.* [1892] 3 Ch. 506, North, J., held that the lien constituted a charge on the shares within the meaning of s. 2 (vi) of the Conveyancing Act, 1881, and that in consequence s. 15 (1) of that Act entitled the shareholder to require the company on payment of the sum due to assign the debt and their lien on his shares to his nominee. By analogous reasoning L.P.A. will now apply (see the definition of "mortgage" in s. 205 (xvi)) and s. 101 gives a power of sale to a mortgagee where the mortgage is made by deed. Where, it may be asked, is the deed creating the lien? The answer is that the effect of the memorandum and articles of a company is declared by s. 20, Companies Act, 1929, to be to bind the company and its members as if they were made under seal.

It is not open to the company to enforce its lien by forfeiture (save in so far as this is authorised in respect of non-payment of contributions and calls), since this would operate as an illegal reduction of capital and as a purchase by the company of its own shares: *Hopkinson* v. *Mortimer, Harley & Co., Ltd.* [1917] 1 Ch. 646. In that case Eve, J., held further that as the lien is an equitable charge in the nature of a mortgage, the power to forfeit was a clog on the equity of redemption, and therefore invalid.

The question of the priority of the company's lien will arise in two main classes of case; firstly, where a third party has advanced money to the shareholder on the security of the shares, and secondly, where there is a beneficial owner of shares registered in the name of a trustee. Sometimes the articles provide that the company's lien shall be a first and paramount lien, but such a provision cannot probably affect the ordinary law as to priorities.

Section 101, Companies Act, 1929, provides:—

> "No notice of any trust, express, implied or constructive, shall be entered on the register, or be receivable by the registrar, in the case of companies registered in England."

This section, in effect, prevents those who have an equitable interest in shares from constituting the company a trustee for them; and the priorities of equitable mortgagees will depend, therefore, not on notice, but on the time of creation of the charge. Suppose, then, that a company has by its articles a first and paramount lien on shares for all debts due from the holder thereof: will the result be that it always has priority over third parties who advance money on security of the shares? This question arose for decision in *Bradford Banking Co.* v. *Briggs*, 12 A.C. 29. There a shareholder deposited his share certificates with a bank as security for overdrafts, and the bank gave notice of the deposit to the company. The certificates stated that the shares were held subject to the articles of association, by which the company had a lien. The House of Lords held that the company could not in respect of moneys which became due from the shareholder to the company *after* notice of the deposit with the bank, claim priority over advances made by the bank after such notice, but that the principle of *Hopkinson* v. *Rolt*, 9 H.L.C. 514, applied. Further, the notice of the deposit with the bank was not a notice of a trust within the meaning of s. 30 of the 1862 Act (now s. 101 of the 1929 Act); the bank were not seeking to affect the company with notice of a trust, but only to affect the company in their capacity as traders with knowledge of the bank's interest.

It is doubtful whether a company can, by a special exemption clause in the articles, excluding the notice of all equities, protect itself further than by s. 101.

The second point, as to the relation between the company's lien and the interest of beneficial owners of shares which are registered in the names of trustees, is also not without difficulty. Suppose the trustees are the registered holders, and one of the trustees is indebted to the company; the company's lien prevails over the title of the beneficiaries, although the debt arose since the purchase by the trustees of the shares: *New London and Brazilian Bank* v. *Brocklebank*, 21 Ch. D. 302. It is otherwise, however, where the company has notice that the shareholder is not the beneficial owner of the shares before it makes advances to him: *Mackereth* v. *Wigan Coal and Iron Co.* [1916] 2 Ch. 293. Moreover, the lien only extends in respect of debts due from the registered holder to the company, and therefore, even if the registered holder is to the company's knowledge a trustee of the shares, the company has no lien for the debt of the beneficiary: *Re Perkins*, 24 Q.B.D. 613. This, in a sense, is a disadvantage to the company which results from its not being bound to recognise trusts of its shares.

(*To be continued.*)

A Conveyancer's Diary.

Protective Trusts.

In another column will be found a form of protective and discretionary trusts which I trust will be useful to some of my readers.

There is one point in this connection which I have not dealt with, namely, the question of the liability for estate duty upon the death of a settlor who has made a voluntary settlement upon protective trusts, and is himself an object of the discretionary trusts.

The question arises upon the construction of s. 38 (2) (*c*) of the Customs and Inland Revenue Act, 1881, as amended by the Customs and Inland Revenue Act, 1889, s. 11, and incorporated into the Finance Act, 1894, by s. 2 (1) (*c*) of that Act.

The point is whether by a settlement, whereby the settlor is an object of the discretionary trusts, the settled property is "property passing under any past or future voluntary settlement . . . by deed or any other instrument not taking effect as a will, whereby an interest in such property for life or any other period determinable by reference to death, is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right by the exercise of any power to reclaim the absolute interest in such property."

The question was before the court in *Attorney-General* v. *Heywood* (1887), 19 Q.B.D. 326.

The facts in that case were, that by a voluntary settlement, a settlor assigned to trustees a sum of money with interest, upon certain trusts and subject to certain powers, provisoes, agreements and declarations. Amongst other provisions it was declared that the trustees should apply the income of the trust funds or any part thereof in their discretion as the same should become payable and without anticipation for or towards the benefit, maintenance and personal support of the settlor and his wife and children, or at their discretion for or towards the benefit, maintenance and personal support of such one or more to the exclusion of the others or other of such objects as the trustees should think proper and should during the lifetime of the settlor accumulate the residue (if any) of the same income in the way of compound interest by investing the same, but such accumulation was not to continue for more than twenty-one years from the date of the settlement. After the death of the settlor the trust funds were to be held upon certain trusts in favour of the settlor's wife and children.

It was held that notwithstanding the power conferred upon the trustees of depriving the settlor of the benefit of the income at their discretion, an interest in such property for life was reserved to him within the meaning of s. 38 (2) (*c*) of the Act of 1881, and that duty was payable on his death.

The whole of the discussion in the case, of course, turned upon the meaning of "interest" as used in the sub-section. It may be noted that the court did not adopt the meaning attached to that word in *Holmes* v. *Penny* (1856), 3 K. & I. 90, to which I have referred before (*ante*, p. 209). In that case it was held that a person who was one of the objects of a discretionary trust did not take any interest in the income of the settled funds. That is to say, any interest which could be attached by his creditors or effectively assigned by him or which was an interest within the meaning of 13 Eliz., c. 5. With reference to that case Stephen, J., in *Attorney-General* v. *Heywood* said: "That is not a judicial determination which can bind us to hold that the word 'interest' in another Act of Parliament is to bear a different meaning from that which it would naturally bear in ordinary language. The same word may have different meanings in different connections and in the present case, for the reasons which I have given, I think it includes that which was reserved to the settlor by this settlement." And Wills, J., said: "The word 'interest' is capable of different meanings according to the context in which it is used or the subject-matter to which it is applied. If the contention for the defendants is right nobody has any interest in the property settled, and yet the whole fund was to be held for the benefit of three classes of persons—the husband, the wife, and the children; and the sum of these three classes, taken together, being the sum of three nothings, amounts to nothing, whereas, on the other hand, it must necessarily comprehend the whole interest in the fund. This is simply a *reductio ad absurdum*."

That, no doubt, is common sense, but I do not think that it can be deduced from that, that a person who is one of the objects of a discretionary trust has an interest which he can assign or which is capable of vesting in his trustee in bankruptcy, although it is true that the decision in *Re Clark* [1926] 1 Ch. 833, came somewhat near to being a judgment to that effect. That case, however, turned upon the somewhat unusual wording of the trusts declared in the will before the court.

The decision in *Attorney-General* v. *Heywood* was considered in the Court of Appeal in *Attorney-General* v. *Farrell* [1931] A.C. 81, and approved.

In that case, by a re-settlement made in exercise of a joint power of appointment reserved to A and his mother by a disentailing deed, property was re-settled by A and his mother reserving to themselves an overriding joint power of appointment. Another re-settlement was made by A and his mother under the joint power of appointment by which they appointed the property to trustees upon trust for the mother for life and after her death upon certain trusts for management, and subject thereto to apply the net rents and profits for the benefit of any one or more exclusively of the other or others of A and his wife and children or remoter issue as the trustees should in their absolute discretion think fit, and (subject to that discretionary trust) to pay or apply the surplus of the rents and profits to or for the purposes to or upon which the same would be payable or applicable if A were dead, and after his death and in the events which happened the trustees were directed to hold the trust estate in trust for A's brother for life, with remainders over.

It was held (*inter alia*) that by making himself one of the possible objects of the discretionary trust, A had reserved to himself an interest in the property settled within the meaning of s. 38 (2) (*c*) of the Act of 1881, as re-enacted and amended in the Finance Act, 1894, s. 2 (1) (*c*).

Lord Hanworth, M.R., and Greer, L.J., considered that they ought to follow *Attorney-General* v. *Heywood* on this point, but did not say that they approved of it. The decision had, however, stood too long to be disturbed. On the other hand, Romer, L.J., stated that in his opinion that case was rightly decided.

It follows that a settlor should hesitate before making himself one of the objects of a discretionary trust, especially as his purpose can generally be achieved without doing so. At any rate it is a point which a draftsman should have in mind and should draw the attention of the settlor to it.

Landlord and Tenant Notebook.

Death of Tenant of Controlled Premises.

The difficult problem which faced the courts which had to deal with the case of *John Lovibond & Sons, Ltd.* v. *Vincent* [1929] 1 K.B. 687, C.A., is not the only one which may arise out of the death of a tenant of premises within the Increase of Rent, etc., Act, 1920. This authority decided that although s. 12 (1) (*f*), which includes in the definition of "tenant" any person from time to time deriving title under the original tenant, and s. 12 (1) (*g*), which extends the same definition to the widow of a tenant dying intestate, etc., seem to suggest and imply respectively that a bequest of a tenancy of premises within the Act is good against the landlord, possession could be obtained of premises held by a *statutory* tenant who had disposed of all her property

by will. For, having decided in *Keeves* v. *Dean* [1924] 1 K.B. 685, C.A., that a statutory tenancy gave the holder a purely personal right, ceasing with occupation, and having to choose between two equal absurdities, the Court of Appeal held that a *statutory* tenancy could not be transmitted by will.

This leaves, as I have suggested, several questions open. To begin with, a tenancy of premises within the Act may be one of two things, a contractual or a statutory tenancy. This point is, however, dealt with in the judgments in *John Lovibond and Sons, Ltd.* v. *Vincent*, and the *obiter dicta* are, after all, a corollary to the decision. For their lordships' reasoning was that the definition in s. 12 (1) (*f*) meant "deriving title from the original tenant as long as the original tenant is not a statutory tenant."

This is important, for it must not be assumed even now that all tenancies of premises within the Act have been converted into statutory tenancies. Even in the case of weekly tenancies, one comes across instances in which landlords have omitted, either from generosity or apathy or fright, to give a notice to quit or a notice to increase rent; and other instances, more common perhaps, in which void notices have been given. Even if acted upon by both parties, these have not the effect of altering the class of tenancy (see the Increase of Rent, etc., Rules, 1920, r. 18) and interests of this nature can be transmitted by will.

Next, what is meant by "intestate"? In the case above, the defendant was sole beneficiary under her mother's will, her mother being statutory tenant at her death; and it was urged by her counsel that if the tenant's interest could not be transmitted by will, there was an intestacy (one might call it a "statutory intestacy") as to the tenancy. Dealing with this argument, Greer, L.J., said it was ingenious, but it was impossible that a person who had disposed of all her property by will could be an intestate within the meaning of these Acts.

That settles one point; and it is of course obvious that s. 12 (1) (*g*) (an "express statutory provision," as Scrutton, L.J., said) applies in the case of a statutory tenant leaving no will at all. But there are numerous other possibilities.

There is the case of a person surviving all the beneficiaries named in his will. Has he disposed of all his property by will within the meaning of Lord Justice Greer's *dictum*?

Then there is the question of partial intestacy. I am now considering that the effect of *John Lovibond & Sons, Ltd.* v. *Vincent* is that the statutory tenancy cannot be the subject-matter of testamentary disposition; consequently the matter is not further complicated by a consideration whether the tenant's interest in the premises is or is not included in the part intended to be disposed of; indeed, it would be too absurd, even for this emergency legislation, that a widow whose husband had left her all his property should have no tenancy while a widow whose husband had left her all his property except the tenancy should receive it! But partial intestacy can, apart from this, arise in two ways; a man may leave a will disposing of less than he owns and could dispose of, or he may dispose of all and some of the beneficiaries may predecease him.

And there is no doubt that there is room for two opinions as to the meaning of the words "die intestate" in a statute, for they have been held to have different meanings in different statutes. In the case of the old Statute of Distributions, 1668, they were held to apply to partial intestacy: *Twisden* v. *Twisden* (1804), 9 Ves. 413; but this authority was held to be inapplicable in *Re Twigg's Estate: Twigg* v. *Black* [1892] 1 Ch. 579, when it was held that the Intestates Estates Act, 1890, was limited in its operation to estates of persons leaving no will at all; consequently, a widow, who was well provided for by settlement, was not entitled to another £500 merely because some of the beneficiaries had predeceased the testator.

In these cases the courts undoubtedly applied the test of intention. It is notorious that the judges have, in desperation, sought to apply the same test to many sections of the Rent, etc., Restriction Acts. In this particular instance the position seems to be as follows: *Keeves* v. *Dean* and *John Lovibond & Sons, Ltd.* v. *Vincent*, say that while part of the legislation manifests an intention to permit assignment *inter vivos* and at death, the dominant intention is to limit a *statutory* tenant's right so as to make it purely personal. So dominant is this latter intention—and subsequent decisions have strengthened this view of the position—that it is unlikely that the widow, etc., of one partially intestate would be held entitled to take over the statutory tenancy. It is, perhaps, more likely in the case of an estate partly disposed of by reason of inadequate disposition than in the case of a testator surviving one of the beneficiaries. But that is as far as I am prepared to go in the field of prophecy.

One other point calls for consideration. On the death of a statutory tenant entitling the landlord to possession, what happens if he accepts rent from the widow? In my opinion, it depends *quo animo*. I analysed the principles of tenancies created by acceptance of rent a few weeks ago (21st January) and these would suggest that if the landlord receives the payments as rent from the widow, and without having obtained actual possession, the premises would still be controlled. But if he received the money as from the tenant, of whose death he was ignorant, I do not think his right to possession would be prejudiced. The widow would have to rely on misrepresentation to make good her claim to protection; granted that any tenancy acquired would be statutory and not contractual, yet it must originate by agreement; and there is no agreement when the identity of one party is mistaken.

Our County Court Letter.

THE REMUNERATION OF DOCTORS.

THE above subject has been considered in two recent cases. In *Paget-Tomlinson* v. *Tasker*, at Horncastle County Court, the claim was for £5 17s. as the balance of a fee of ten guineas for an appendicitis operation. The latter had been performed upon the defendant's child, at a hospital of which the plaintiff was honorary surgeon, and the defence was that the plaintiff should have given his services free, as was the case at Lincoln Hospital. His Honour Judge Langman observed that a rule of the Horncastle Hospital was that the doctors could charge, and he held that the above fee was reasonable. Judgment was, therefore, given for the plaintiff, with costs.

In *Chevasse* v. *Mitchell*, at Camelford County Court, the claim was for £81 for services rendered between November, 1931, and February, 1932 (according to a scale agreed by the defendant in 1925) but the defence was that the charges were unreasonable. His Honour Judge Lias held that (*a*) there was no agreement as to the amount per visit, but the defendant expected to pay 10s.; (*b*) it was unreasonable to charge more to a man in his position (viz., a blacksmith) except for a night visit; and (*c*) 30s. was a reasonable charge for three visits in twenty-four hours. The defendant had paid £5 per week in a nursing home, where he had had injections at 10s. each, but the charge for these was ordered to be reduced to 6s. 6d. —the price of the drugs. Judgment was given for an amount to be ascertained on the above rulings. For a prior reference, see the "County Court Letter" in our issue of the 17th December, 1932 (76 SOL. J. 886).

EXECUTOR'S RIGHT OF RETAINER.

IN the recent case of *In re Last: Last and Others* v. *Ensor*, at Ipswich County Court, the facts were as follows: (1) The testator died on the 4th August, 1931, leaving property charged to Barclays Bank Limited, under the Agricultural Credits Act, 1928; and (2) on the 10th August the bank appointed a receiver, who arranged that the farm should be carried on by the applicants as executors; (3) the latter applied, however,

for the estate to be administered in bankruptcy on the 19th November, and they accordingly handed over the farm to the bank's receiver—and other assets to the Official Receiver; (4) the respondent was appointed trustee in bankruptcy on the 9th December, 1931, whereupon the applicants lodged proofs for £4,958 for money lent; (5) on the 23rd February, 1932, the applicants read a newspaper report of *Attorney-General* v. *Jackson* [1932] A.C. 365, and thus discovered their right of retainer; (6) they therefore withdrew their proofs in May, 1932, and claimed £1,144 (part of the proceeds of sale of the farm) which the bank had paid to the respondent. It was contended, however, that the applicants had never had possession of this asset, which was therefore not subject to their right of retainer. His Honour Judge Hildesley, K.C., held that (*a*) the applicants had been in possession of the farm, subject to the charge, up to the 19th November, 1931, and were admittedly not prejudiced by ignorance of their rights; (*b*) it was therefore still open to them to exercise their election to retain, in spite of the order for administration in bankruptcy. A declaration was therefore made that the applicants were entitled to (*a*) a right of retainer against, *inter alia*, the cash surplus available after the realisation of the bank's charge; (*b*) an indemnity against all outstanding liabilities incurred in their management of the farm.

In Lighter Vein.

The Week's Anniversary.

There was a time when the prisoners in the dock might bring death to the judge on the bench, when from the filthy holes in which they were confined, they brought into court the fatal infection of gaol fever which might spread to sweep the whole assize town. Lord Chief Baron Pengelly fell a victim to such an outbreak started by some prisoners brought from Ilchester to Taunton for the Lent Assizes in 1730. Some hundreds of persons perished almost at a stroke, including the High Sheriff of Somerset. The judge died at Blandford on the 14th April, and his body was brought back to be buried in the Temple Church. He had a high reputation for learning and on the bench he commanded great public confidence. His charitable disposition was evidenced at the Bar by his frequently putting his services gratuitously at the disposal of poor suitors. By his will, he left £2,800 for the discharge of poor debtors imprisoned in London and the towns where he had presided on the Western Circuit. Other outbreaks of gaol fever, so grave as to be memorable, occurred at Oxford in 1577, and at the Old Bailey in 1750.

A Matter of Rank.

Recently, Sir Ernest Wild, K.C., the Recorder of London, gave some sound advice when he said: "If a policeman says anything to you, take off your hat, and say 'Yes, sir,' and call him officer. If he is a sergeant, call him an inspector. Cheek a policeman. Never! One of the seven deadly sins." This advice apparently is strictly in accordance with constabular etiquette to judge by what happened on the visit of Serjeant Parry and his wife to a "Police Ball," at Maidstone. He gave their names to the constable at the door as "Serjeant and Mrs. Parry," but the man did not find this good enough for the portly and imposing figure, and loudly announced: "Mr. Hinspector and Mrs. Parry." The army also shares this little weakness, and there is a good story of how O'Connell once worked upon it at Fermoy, when he was going circuit. The next stage of the journey led through the then robber-infested mountains of Kilworth, and a member of the Bar, wishing to have his pistols ready, accosted a corporal of dragoons in the inn tap-room with, "Soldier, will you sell me some powder and ball?" and received a curt refusal. O'Connell explained the mistake he had made. "You mortified his pride in calling him a soldier, especially before his own men, amongst whom he, doubtless, plays the officer." When a sufficient interval had elapsed, he himself went up to the man with "Did you ever see such rain as we had to-day, sergeant?" After some conversation, he said: "Perhaps, sergeant, you will have the kindness to buy me some powder and ball in the town? You, of course, can have no difficulty in buying it, but it is not to everyone they sell these matters." The flattered soldier at once made him a present from his own supply.

Divorce Fictions.

A recent sensational divorce suit in which Lord Merrivale found, on the King's Proctor's intervention, that the woman with whom adultery was alleged to have been committed was non-existent, brings up all the controversy about the necessity for easier divorce. It also makes me wonder whether a suggestion of mine that "Joan Doe" and "Richard Roe" should be pressed into service as intervener or co-respondent is taking effect. This subject is one on which Sir Ellis Hume Williams, K.C., tells an amusing story of a friend of his who had occasion to provide his wife with divorce evidence. He chose an hotel and found a lady, pleasant, if a little prim. When she arrived, she looked rather unwell. Before dinner they discussed ecclesiastical and political questions, but the lady looked worse and worse, and at table ate hardly anything. When they reached the bedroom, she was seized with violent spasms and was so sick that a doctor was summoned. He diagnosed a violent colic and proposed to send for a nurse to administer the proper treatment, a hot water bottle on the patient's stomach every hour during the night. In the circumstances, the would-be respondent had no use for a nurse, so he undertook the job himself, and spent the night in an armchair filling the bottle at regular intervals from the bathroom tap. The night thus charitably spent duly earned him his divorce. It is needless to say that the eminent silk who tells the story was not in the case.

Obituary.

Mr. H. G. W. D'Almaine.

Mr. Henry George William d'Almaine, solicitor, of Abingdon, died at his home on Monday, 27th March, at the age of seventy-two. Admitted a solicitor in 1884, he had practised in Abingdon for over forty years. He was a member of the Abingdon Borough Council during the War, afterwards resigning to take up the duties of Town Clerk for Abingdon, which office he retained until 1923. Mr. d'Almaine was also a well-known antiquary and archæologist.

Mr. J. S. Kay.

Alderman J. Sellers Kay, solicitor, of Burnley, died on Tuesday, 28th March, at the age of sixty-six. He was educated at Clifton College, and having served his articles with Messrs. Bolton and Preston, of Blackburn, he was admitted a solicitor in 1891. He had been in practice at Burnley since that year. Mr. Kay became a member of the Burnley Town Council in 1905, and was elected Mayor of the borough in 1913. He was also the representative of the Territorial Association for East Lancashire.

Mr. P. Thornton.

Mr. Philip Thornton, solicitor, of Bedford-row, W.C., and Rickmansworth, died at his home at Rickmansworth, on Thursday, 30th March. Mr. Thornton was admitted a solicitor in 1878.

Mr. G. A. Weston.

Mr. George Augustus Weston, retired solicitor, of Kidderminster, died on Tuesday, 21st March, in his seventieth year. Mr. Weston was admitted a solicitor in 1887.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Mortgagee Taking Possession without Action.

Q. 2698. A purchased from B a dwelling-house for £2,000 in May last. B left on mortgage £1,700. The property is on the Land Register. A did not occupy the premises but left certain articles there such as tools and utensils which he has subsequently taken away. The date for repayment in the charge is November last. A is in arrear with interest over two months, and B is about to offer the property for sale by auction under the statutory power. The charge contains no covenants other than for insurance and against alterations without consent. B will not give up the keys (although not definitely refusing to do so he ignores all applications). Would the mortgagee or a purchaser for value be safe in drawing staples on outer doors and unlocking the premises with keys made by either for the purpose, or what alternative is suggested ? It is not desired to take foreclosure proceedings owing to length of time involved and intermediate dilapidation. Can the mortgagee sell with vacant possession on completion ?

A. B can, of course, bring an action for possession without asking for foreclosure, but if A puts in an appearance he may cause considerable delay and expense. The risk of taking possession without action, the property being unoccupied, is small, but in view of the fact that B might at any time before an enforceable contract for sale is entered into come forward with the interest and costs, and again cause delay and expense by seeking to charge A to account as mortgagee in possession, it is advised that no step should be taken (other than by action) until after contract for sale. Better still, let the purchaser take possession after conveyance. No question could then arise, unless of course A had resumed possession.

Private Street Works Act, 1892.

Q. 2699. By an agreement under seal an owner of property agreed to pay to an urban district council his ascertained and agreed proportion of the expense of making up the road whereon his property abuts. The agreement provided that payment was to be made by instalments with interest; on default in payment of one instalment the whole was to become due and the council might exercise any of the powers and remedies conferred on mortgagees by the Law of Property Act, 1925, and otherwise as if they were mortgagees having powers of sale. The property was charged, with payment of the principal sum and interest. Default in several instalments has been made. There are mortgages on the property, and the first mortgagees have the deeds. Can the council exercise the power of sale even though the agreement or charge is dated subsequent to the mortgages ?

A. Without the agreement the council would have had a power of sale under s. 13: *Payne* v. *Cardiff R.D.C.* [1932] 1 K.B. 241 (in other reports in 1931). The agreement for instalments is sanctioned by s. 12 (1) of P.H.A., 1925, s. 257, with interest at 5 per cent., P.H.A., 1925, s. 77. The charge is a first charge on the premises and the council can sell or appoint a receiver but should give the mortgagees notice, which will probably result in payment of the money. For an action for a declaration as to priority of charge and an inquiry who are the other incumbrancers see *Tottenham U.D.C.* v. *Nielson* (1915), 56 Sol. J. 667; 85 L.J. Ch. 272. This was under a local Act.

Assignment for Benefit of Creditors avoided by Bankruptcy —Right to Costs.

Q. 2700. A debtor being insolvent called a meeting of his creditors, when it was arranged that he should execute a deed of assignment, for the benefit of his creditors. We prepared the deed which was duly completed and registered, and also obtained the creditors' assents, etc. A week later debtor filed his petition in bankruptcy. What is the position with regard to our costs ?

A. The position of both a trustee and of the solicitor concerned in the matter of an assignment for the benefit of creditors is a precarious one. Speaking generally neither is entitled to remuneration or expenses incurred after knowledge of an act of bankruptcy committed within three months before the petition. Such act of bankruptcy may be the receipt by creditors of the notice convening the meeting or statements at the meeting or (at the latest) the execution of the deed: *Re Pollitt: Ex parte Minor* [1893] 1 Q.B. 455. The trustee is entitled to his expenses of acts first rendered necessary by the Deeds of Arrangement Act, 1914: see s. 21 of the Act, and *Re Geen: Ex parte the Trustee* [1917] 1 K.B. 183. If the estate has benefited by the work of the trustee, the trustee in bankruptcy may adopt and pay for the trustee of the deed's services: see *Re Simonson: Ex parte Ball* [1894] 1 Q.B. 433, and *Re Foster: Ex parte Official Receiver* (1895), 72 L.T. 364.

Affidavit of Documents by Manager.

Q. 2701. We frequently come into contact with affidavits for leave to defend in proceedings under Ord. 3, r. 6, where affidavits are sworn, not by the defendant, but by some person who states in the affidavit the facts are within his own knowledge and he is authorised by the defendant to make the affidavit. We cannot find the order and rule allowing this, but the point occurs to us in connection with an affidavit of documents in a High Court proceeding where the defendant is a company of which there is one registered proprietor who leaves the whole management of his business to a manager. Could the manager in the circumstances mentioned above swear an affidavit of documents in a High Court proceeding, and could you refer us to the order and rule in the High Court rules allowing this ?

A. The manager in the circumstances could swear an affidavit of documents in a High Court proceeding, the Master or District Registrar having inherent authority to order him to do so. See "Chitty's King's Bench Forms" 16th ed., 1931, pp. 323 and 326. The question refers to a company of which there is one registered proprietor, but (if this is so) a breach of the Companies Act, 1929, is being committed, as the company is carrying on business with less than the minimum number of shareholders, viz., two.

Decontrol on Enlargement of Tenancy.

Q. 2702. A was the tenant of a dwelling-house which was controlled under the Increase of Rent and Mortgage Interest (Restrictions) Acts. He sublet part of the dwelling-house to B. In 1930 A died intestate, leaving (so far as known) no person within the terms of cl. 12 (*g*) of the 1920 Act, and the key of the premises was handed to the agent of the landlord, leaving B still in possession of the rooms of which he was sub-tenant. Subsequently B gave notice to quit to

the head landlord and then entered into an agreement with the head landlord for the tenancy of the whole house at an increased rent. B is now claiming that the house is "controlled" under the Acts, and the repayment of the amount of the increased rent. Is B entitled to recover this amount, or has the house become decontrolled? The landlord had possession of the whole house subject to B's sub-tenancy. It should be pointed out that the sub-letting by A to B was without the landlord's consent, although he subsequently had knowledge of it.

A. The facts of the present case appear to be uncovered by authority, and it would be well to compromise—on the lines that there are still two notional dwelling-houses in existence, both of which are let to B. The difficulty is that the landlord has never had possession of the whole house, so as to effect decontrol, but (on the other hand) there is no ground for B to contend that he is a statutory tenant of the whole house. It will therefore be necessary to apportion the rent (either by agreement or through the court), and B will be entitled to recover that proportion of the increased rent which is attributable to the part originally let to him. The landlord can recover the increased rent for the remainder of the house of which he obtained actual possession.

Life Owner becoming entitled to Share in Remainder—Realisation.

Q. 2703. A is tenant for life under the will of a testatrix who died in July, 1922. After A's death the estate is to be divided equally between such of A's children as were living at the death of the testatrix. One of such children, B, has recently died intestate, a spinster, leaving A, her father, who is entitled to the whole of her estate. B's estate includes her share in the estate of the testatrix. Can A call upon the trustees of the testatrix's estate to transfer to him absolutely B's share in such estate, seeing that he is now absolutely entitled to such share under the intestacy of B? The testatrix's estate consists of War Stock, money out on mortgage and real property. The mortgage money and real property are not easily divisible, and A only proposes to ask the trustees to transfer to him now B's share in the War Stock. Can the trustees refuse to transfer this?

A. A person absolutely entitled under a will or settlement to a share of personal estate is *primâ facie* entitled to have his share raised—*contra* of real estate directed to be sold with power of postponement: *Re Marshall M.* v. *M.* [1914] 1 Ch. 192. The opinion is given that a life owner who has become absolutely entitled to a share is in the same position. We think A is entitled to ask for an aliquot share of the War Stock (unless the trustees can show some good reason to the contrary), but not to have the other asset mentioned realised.

Carmelite Monastery and Income Tax.

Q. 2704. A Carmelite monastery owns property comprising the monastery and cottages, the only income being the rents of the cottages, the ownership and occupation of the monastery and a small amount of War Loan interest. The Revenue are demanding £26 tax on the property, plus land tax. Does such a body rank as a charitable institution, and as such obtain exemption, or is it liable at the standard rate on all income?

A. As the monastery is established upon trusts for the advancement of religion, it is entitled to rank as a charity, in accordance with *Special Commissioners* v. *Pemsel* [1891] A.C. 531. Exemption will therefore be granted under the Finance Act, 1921, s. 30 (1) (*a*), from income tax under Sched. A, and under s. 30 (1) (*b*) from tax under Sched. B. It is assumed that no occupant of the cottages has an income of £150 a year, within the Income Tax Act, 1918, Sched. A, No. VI (1) (*c*).

Mr. Robert Marshall, retired solicitor, of Burghfield Common, Berks, left £44,371, with net personalty £28,017.

Notes of Cases.

High Court—Chancery Division.

In re **Patrick and Lyon Limited.**

Maugham, J. 14th and 15th March.

Company—Insolvent—Debentures—Issued to Director—Business carried on—Meaning of Fraudulent—Companies Act, 1929 (19 & 20 Geo. 5, c. 23) ss. 265, 266, 275.

The company was incorporated in 1929. Till July, 1932, the first respondent was a director. After his retirement his son, who was secretary, became a director. His wife was also a director. In January, 1932, it was arranged that the first respondent should advance the company £400, wherewith to discharge a debt to himself and his wife. On the 3rd February it was authorised to issue debentures to the extent of £1,000. On the 11th February it drew cheques in their favour for £339 16s. 7d. and £51 8s. 4d respectively. On the 12th February the first respondent paid the company £400 and there were issued to him four debentures of £100 each constituting a floating charge. On the 13th August the second respondent was appointed by the first respondent receiver under the debentures. Notices were also sent convening a meeting of the company's creditors to consider a resolution for winding up. The company, which for some time past had been unable to pay quite small debts, was now in liquidation. It had never made a trading profit, and from July, 1931, its business became progressively worse. The applicants, who were creditors, alleged that since the issue of the debentures the company had been kept alive by the first respondent solely to validate them under s. 266 of the Companies Act, 1929. Under s. 275 of that Act they claimed that he should be liable without limitation for the debts and liabilities of the company.

Maugham, J., in giving judgment, said that in s. 275 of the Act "defraud" and "fraudulent purpose" connoted real dishonesty, according to current ideas of fair trading. In s. 265, however, "fraudulent preference" did not involve moral blame. In s. 266 it did not seem that the legislature considered the creation of a floating charge when a company was insolvent was fraudulent. Such a floating charge could only be attacked when the company went into liquidation within six months of its creation. In exercising jurisdiction under s. 275 the court must consider whether the director was guilty of fraud in the sense meant in that section. As to the company's solvency, the onus of proof lay on the debenture-holder seeking to support his debentures. A company was solvent if it could pay its debts as they became due; commercial solvency on balance-sheet figures was not enough (*Ex parte Russell*, 19 Ch. D. 588; *London & Counties Assets Co.* v. *Brighton Grand Concert Hall & Picture Palace Ltd.* [1915] 2 K.B. 493). The debentures, therefore, could have been attacked if the liquidation had commenced within six months of the issue. During the latter part of that period the notices to wind up had been deliberately delayed. This was no more high-minded than for a person to form a company with a very small share capital or to buy stock by an issue of debentures to himself, but these things had not been held fraudulent nor prohibited by the Companies Act. In its last stages the company's business was carried on to get in book debts and hold sales of stock and not to secure assets available for debentures. It was not clear that the first respondent deliberately intended to defraud the creditors. There was certainly not enough evidence to justify an indictment. The summons must be dismissed, but having regard to the first respondent's conduct, without costs.

Counsel: *Grant*, K.C., and *E. M. Holland*; *Daynes*, K.C., and *P. J. Sykes*; *Coldstream*.

Solicitors: *J. C. Fox, Gamble & Son*; *Collyer-Bristow and Co.*, agents for *Forsyth, Bettinson & Co.*, of Birmingham.

[Reported by Francis H. Cowper, Esq., Barrister-at-Law]

High Court—King's Bench Division.

Simpson *v.* Charrington & Co. Limited.

Acton and Goddard, JJ. 20th March.

Landlord and Tenant—Off-Licence Premises—Claim to new Lease—Compensation—Landlord and Tenant Act, 1927 (17 & 18 Geo. 5, c. 36), s. 4, cl. (c), s. 5.

This was an appeal by the plaintiff, Walter Horace Simpson, from a decision given at Lambeth County Court.

The question was whether under the Landlord and Tenant Act, 1927, he, as tenant of premises known as the Avondale Stores, Old Kent Road, in respect of which an off-licence had been granted, was entitled on the termination of his tenancy to a new lease under s. 5, or, alternatively, to compensation for goodwill, under s. 4, from the defendants, his landlords, Charrington and Co. Limited, brewers. The plaintiff had carried on business at the above premises for twenty-one years. The referee to whom the plaintiff's claim was referred reported in his favour and found as a fact that he would suffer a greater loss if he removed than the sum which could be awarded to him under s. 4, and that the grant of a new lease would be reasonable, subject to the true construction of proviso (c) of s. 4 (1). On the application by the defendants to vary the report, the county court judge found that the plaintiff had not proved that by carrying on the trade or business at the premises for not less than five years, goodwill had become attached to the premises by reason whereof they could be let at a higher rent than they would have realised had no such goodwill attached thereto; and alternatively, that proviso (c) of s. 4 (1) debarred the plaintiff from the relief which he sought. The plaintiff now appealed.

Acton, J., said that the appeal raised three questions: (1) Whether the tenant's claim for a new lease was barred by the form of the statutory notice of claim served on the landlords, in that it claimed compensation under s. 4 of the Landlord and Tenant Act, 1927, alternatively to a claim for a new lease under s. 5; (2) whether on the correct construction of cl. (c) in the proviso to s. 4 (1) of the Act the tenant could be in any event entitled either to a new lease or, in the alternative, to compensation; (3) what were the proper functions of the referee and the county court judge respectively in relation to one another. Of those questions the fundamental one was the second. His lordship then referred to the material sections of the Act, and said that it was contended for the respondents that any addition to the value of any licensed premises due to increased profits realised during the tenancy of the tenant or his predecessors by the sale of intoxicating liquors must be deemed to be within the meaning of cl. (c) attributable to the fact that the premises were licensed premises. Not without doubt arising from what seemed to be the somewhat obscure wording of the clause, he had come to the conclusion that the arguments for the respondents prevailed and that that was the true construction of the clause in question, and in the present case it was not contested that there was carried on in those licensed premises no other trade or business than the mere sale of intoxicating liquors under an off-licence. That being so it was unnecessary to decide the other points, and on that ground the appeal must be dismissed.

Goddard, J., gave judgment to the same effect.

Counsel: *Monckton*, K.C., and *Claude Grundy*, for the appellant; *Henry O'Hagan*, for the respondents.

Solicitors: *Sprinz & Sons*; *Loxley, Gardner & Sewell.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Borough of Stamford.

The next General Quarter Sessions of the Peace for the Borough of Stamford will be held in the Town Hall, Stamford, on Thursday, 27th April, at 11.30 in the forenoon.

Walley *v.* United Dairies (Wholesale) Limited.

Macnaghten, J. 20th March.

Contract—Sale of Milk—Deduction of Railway Carriage from Price Payable—Railway Rebate Allowed to Purchaser for Conveyance of Large Quantities—Seller Entitled to Benefit of Rebate.

The plaintiff in this action, Arthur Walley, a farmer, of Eaton Tarporley, Cheshire, claimed from United Dairies (Wholesale) Limited, an account under a contract, dated the 22nd September, 1930, by which the plaintiff agreed to sell at certain varying seasonal prices to the defendant company from the 1st October, 1930, to the 30th September, 1931, the whole of the milk produced by his cows. Under that contract the milk was to be delivered at the defendants' depot at Calveley, Cheshire, which was the nearest railway station. The contract also provided that the price per gallon to be paid by the defendant company to the plaintiff was a specified sum per month less "a sum equal to the railway carriage of the milk to London and one halfpenny per gallon." (The extra half-penny was in respect of handling and cleaning charges at the depot.) In consideration of the despatch of milk bought from the plaintiff and other farmers in the district from Calveley to London in large quantities the defendants were allowed a rebate by the railway company of 30 per cent. of the rate-book charge. The plaintiff contended that the defendants could deduct from the specified price not more than the railway charges actually paid by them in respect of the railway carriage on the milk. The defendants contended that they were entitled to deduct the charge per gallon appearing in the current railway rate book, irrespective of whether the milk was conveyed to London or elsewhere by rail, or at all, and irrespective of the rebate of 30 per cent. for milk sent in large quantities.

Macnaghten, J., said that in his view the words "per gallon" at the end qualified the words "to be charged for the railway carriage to London" equally as they qualified the half-penny. In his judgment the defendant company was not entitled to deduct from the monthly price a sum in excess of the amount actually paid by them for the railway carriage to London. Judgment for the plaintiff, with costs. A stay of execution was granted. (It was stated by counsel that the defendant company had entered into about 7,000 similar contracts with other farmers throughout the country.)

Counsel: *Edward Cave*, K.C., and *J. P. Elsden*, for the plaintiff; *Stuart Bevan*, K.C., and *John Buckley*, for the defendants.

Solicitors: *Taylor, Jelf & Co.*, for *Potts, Martyn & Ouseley-Smith*, Chester; *S. L. MacAndrew.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Hyde *v.* White; White *v.* Hyde.

Lord Merrivale, P. 21st February.

Probate—Costs—Charging Order in Favour of Solicitors—Instrumentality in Recovering or Preserving Property—Wills set up in the Alternative—Finding of Intestacy—Client entitled to Share as Next-of-Kin—Change and Discharge before Trial of Solicitors—Solicitors Act, 1932 (22 & 23 Geo. 5, c. 37), s. 69.

In these consolidated probate actions the only point calling for report was an application on behalf of two firms of solicitors for charging orders in the following circumstances.

Florence Hyde, the plaintiff in *Hyde* v. *White*, propounded a will of 1926, and successively in the alternative two earlier wills of 1909. The defendant in that action, W. A. T. White, pleaded to all three wills and claimed an intestacy as plaintiff in *White* v. *Hyde*, in which action Florence Hyde was the defendant. Florence Hyde, as lawful sister of the deceased,

was also entitled to a share of his estate on an intestacy. In the result there was a declaration of intestacy. Florence Hyde had employed two firms of solicitors in succession, Messrs. Robinson & Allfree and Messrs. Wiley & Powles, and from both of them she had withdrawn her instructions and failed to discharge their bills of costs. Judgment had been obtained against her, but had not been satisfied. The solicitors obtained an order giving them leave to attend the trial and apply for charging orders on any interest Florence Hyde might take as a result. Counsel addressed the court on behalf of the solicitors. Florence Hyde did not appear and was not represented.

Lord MERRIVALE, P.: This is an application under s. 69 of the Solicitors Act, 1932, that the court should declare the solicitors who have acted for the plaintiff entitled to a charge on the interest in the estate of the deceased to which the plaintiff is now entitled by reason of the finding of the court that there is an intestacy . . . No difficulty arises by reason of the fact that the plaintiff changed her solicitors. If they had remained her solicitors down to the date of the decree that has been pronounced to-day that would not have enlarged any right they have to costs, and if they are entitled to-day, they are no less entitled although they no longer represent the plaintiff. The real question is whether the section gives a charge on the interest of the plaintiff which has now been ascertained, and whether there is such a charge by reason that that interest is property which has been recovered or preserved through the instrumentality of her solicitors. If one takes a superficial view, it can be said that the plaintiff has been unsuccessful in the claim she made under any of the wills. It may be said, therefore, that since she has failed all along the line there has been no property preserved or recovered. On the whole I do not think that this is the true view. The statute must be construed with reference to various classes of litigation. This is a Court of Probate. The property in question is the estate of Henry Benjamin White, who is dead, and it has not previously been vested by any judicial or administrative act in any other person. There were persons who had inchoate rights in it, and one of the persons who had those rights was his sister, the plaintiff, who had issued a writ " In the estate of Henry Benjamin White " in the Probate Division. She claimed in certain specific modes. She claimed so much of the estate as was disposed of in her favour under a will of 1926 and in the alternative under two wills of 1909 and those claims failed, but there still remained the question what her interest was in the estate of Henry Benjamin White, and that was an inchoate interest until there was some effective order of the court. That was the position until that right had been ascertained. In these circumstances I do not think that a merely narrow construction must be put on the words of the section, but that they must be read with regard to the intention of the legislature. I think that this is a property which has been preserved, that is to say, that has been secured to the plaintiff in these proceedings. I therefore think that her solicitors are entitled to charging orders for their costs properly incurred on her behalf in the litigation, and there will be a declaration that such costs be charged on the share of the estate to be received by the plaintiff by virtue of the declaration of intestacy.

COUNSEL: *A. Richard Ellis* (with him *H. Clifford Mortimer*) for the solicitors.

SOLICITORS: *Lovell, Son & Pitfield*, for *Robinson & Allfree*, Ramsgate; *Wiley & Powles*.

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

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Parliamentary News.

Progress of Bills.

House of Lords.

Army and Air Force (Annual) Bill.
Read First Time. [4th April.

City of London (Various Powers) Bill.
Read First Time. [4th April.

Doncaster Area Drainage Bill.
Read Third Time. [4th April.

Education (Necessity of Schools) Bill.
Read First Time. [30th March.

Great Western Railway Bill.
Read First Time. [4th April.

London Midland and Scottish Railway Bill.
Read First Time. [4th April.

London Overground Wires, &c., Bill.
Reported, with Amendments. [30th March.

London Passenger Transport Bill.
Read Third Time. [30th March.

Lyme Regis District Water Bill.
Read Third Time. [4th April.

Middlesbrough Corporation Bill.
Read Second Time. [30th March.

Oxford Corporation Bill.
Reported, with Amendments. [4th April.

South Suburban Gas Bill.
Reported, with Amendments. [4th April.

Staffordshire and Worcestershire Canal Bill.
Read First Time. [4th April.

Wimbledon Corporation Bill.
Reported, with Amendments. [4th April.

House of Commons.

Army and Air Force (Annual) Bill.
Read Third Time. [3rd April.

City of London (Various Powers) Bill,
Read Third Time, [3rd April,

Durham Corporation Bill.
Read Third Time. [5th April.
False Oaths (Scotland) Bill.
Reported, with Amendments. [30th March.
Great Western Railway Bill.
Read Third Time. [31st March.
Hotels and Restaurants Bill.
Read Second Time. [31st March.
Lyme Regis District Water Bill.
Read First Time. [5th April.
Mersey Tunnel Bill.
Read Third Time. [30th March.
Ministry of Health Provisional Orders (Hereford and West Kent Main Sewerage District) Bill.
Read Second Time. [5th April.
Ministry of Health Provisional Orders (Tees Valley Water Board and West Monmouthshire Omnibus Board) Bill.
Read Second Time. [5th April.
Norwich Corporation Bill.
Reported, with Amendments. [3rd April.
Nurses Registration Act (1919) Amendment Bill.
Read First Time. [3rd April.
Registration and Regulation of Osteopaths Bill.
Read First Time. [4th April.
Rent and Mortgage Interest Restrictions (Amendment) Bill.
In Committee. [4th April.
Russian Goods (Import Prohibition) Bill.
Read Second Time. [5th April.
Solicitors Bill.
Reported, with Amendments. [30th March.
Staffordshire and Worcestershire Canal Bill.
Read Third Time. [31st March.
York Corporation Bill.
Reported. [30th March.

Questions to Ministers.

KING'S BENCH DIVISION.

DECISIONS BY MASTERS IN CHAMBERS.

Mr. CROOM-JOHNSON asked the Attorney-General approximately the total number of decisions by Masters in Chambers in the King's Bench Division during each of the last three judicial years; how many appeals from such decisions were heard before the Judge in Chambers, and how many from the Judge in Chambers to the Court of Appeal; and the results of such appeals?

THE ATTORNEY-GENERAL: The figures for the years 1930–31 and 1931–32 are as follow:—

	Decisions by Masters in Chambers (approximately).	Appeals from Masters to Judges in Chambers	Masters reversed or varied by Judges.	Appeals from Judges to Court of Appeal.	Judges reversed or varied by Court of Appeal.
12th Oct., 1930, to 11th Oct., 1931,	35,923	452	243	37	13
12th Oct., 1931, to 11th Oct., 1932.	35,365	367	201	31	17

The figures for the year 1929–30 have not been collated. [4th April.

Societies.

The Selden Society.

The Right Hon. LORD ATKIN, the President, took the chair at the forty-eighth annual meeting of this Society, held in the Council Room at Lincoln's Inn on 27th March. In moving the adoption of the report and accounts, he referred with regret to the loss which the Society had sustained during the past year in the death of Mr. Cyprian Williams, who had served every office in the Society and had only recently vacated the position of Vice-President. Another loss which the Society deeply deplored was that of Mr. Justice Hodgins, its late representative in Canada, a great judge and a learned lawyer. The Society so far showed a substantial credit balance, which indicated that its affairs were running smoothly. This fund was, however, subject to large commitments in the future, because a considerable number of volumes were in contemplation. The membership was less by twenty than it had been in the previous year, a fall which was perhaps only natural in view of the present depression. The advantages which the Society offered were, however, so great that it should attract the profession in increasing numbers as they became better known. The volumes which it distributed were in themselves well worth the subscription.

The Society was (Lord Atkin continued) about to publish its fiftieth volume. It had been founded in 1887 with the idea of producing one volume a year, but it had exceeded that figure, and had also produced two subsidiary volumes of considerable interest: Selden's Table Talk and a Bibliography, edited by Mr. Cowley, of "Abridgments, Digests, Dictionaries and Indexes of English Law to the year 1800." Arrangements had been made to publish in full the Assize Rolls for Lincolnshire of the year 1218 and for Worcestershire of the year 1220. These were the earliest documents of Assize Rolls in the Record Office and the identical ones that had been used by Bracton.

The American Treasurer, Mr. R. W. Hale, had rendered most valuable services: substantial contributions had come from the United States with practically no charge to the Society. Lord Tomlin's turn as Vice-President had expired, and he would be succeeded by Mr. Justice Talbot. With this exception, the constitution of the officers and the Council remained the same.

After the report and accounts had been unanimously adopted a vote of thanks to Lord Tomlin for his services as Vice-President during the last three years was proposed by the President, seconded by Mr. W. E. Tyldesley Jones, and carried with enthusiasm.

Lord Tomlin proposed, and Judge Hildesley seconded, a vote of thanks to the officers of the Society. Sir Frederick Pollock, the Literary Editor, in reply, said that the proposed volume of "Cases before the Justices assembled in the Exchequer Chamber" would be of interest for the history of law and of the courts. Mrs. D. M. Stenton, the Editor of the Assize Rolls, was publishing facsimiles of some of them, which would greatly interest the profession and the historical mediævalists who gave the Society such a large proportion of its support. Although the profession took more interest in its own history than when the speaker had been called to the Bar, the Society still found very great difficulty in getting people learned in the law to edit its volumes, and relied largely on students of mediæval history. There was no harm in this except that the Literary Editor and the Secretary had to exercise constant vigilance to verify small technical points. Meticulous historians were not lacking to criticise the Society's work: sometimes they were helpful, but at other times their comments were captious and quite erroneous.

Johnson Club.

COURTS OF JUSTICE IN DR. JOHNSON'S DAY.

Mr. Marshall Freeman, who was a guest at a Johnson Club dinner at Dr. Johnson's old house in Gough-square on 31st March, delivered a lecture on the above subject. He said that as Dr. Johnson was born in 1709 and passed in 1784, his day might be regarded as synonymous with the eighteenth century—a period in our legal history crowded with great events and notable for the distinguished lawyers it produced, and for the evolution of reforms in the administration of justice. It was in fact a period of steady transition from mediævalism towards modernism—from tyrannical and despotic judgment to ordered and impartial administration of justice. Twenty-one years before Dr. Johnson saw the light of day, the long struggle between King and Parliament had been brought to an end by the flight of the last of the Stuarts, and the task which lay before the law reformers of the eighteenth century was that of reconditioning the dislocated machinery of the legal system and in particular of relegating to the Court of Chancery—after depriving it of jurisdiction in criminal matters and of its power of interference with the judgments of other courts—the pursuit of that equitable jurisdiction which had since been regarded as its own most appropriate sphere. The lecturer then proceeded to deal with the reform of the legal system, which had proved by no means an easy task.

The second part of Mr. Marshall Freeman's paper dealt with the developments of Chancery jurisdiction and procedure and the growth of the offices of the Lord Chancellor and the Master of the Rolls. The origin and development of the duties of Masters in Chancery, and of the Six Clerks and their assistants (the Sixty Clerks), were also reviewed in detail.

The lecture was illustrated by numerous lantern slides depicting, *inter alia*, famous lawyers of the eighteenth century, Old Newgate, Westminster Hall, the Court of Exchequer, the Star Chamber, Masters in Chancery, the Six Clerks and their office in the old Hatfield Inn; and an interesting discussion followed.

The Hardwicke Society.

An ordinary meeting of the Society was held in the Middle Temple Common Room on Friday, 31st March. The President (Mr. Vyvyan Adams, M.P.) took the chair at 8.20 p.m. In public business, Mr. E. W. Roskill, moved—"That this house demands the abolition of the Means Test, and a 10 per cent. increase in the rate of unemployment benefit." Mr. J. Boyd-Carpenter opposed. There spoke to the motion, Mr. Tahuda, Mr. MacColl, Mr. Wigan, Mr. Wagstaff, Mr. Menzies, Mr. Wrottesley, Mr. Davidson, Prince Lieven, Mr. Bray, Mr. Baden Fuller, and Mr. Parker; and the hon. proposer in reply. On a division, the motion was lost by six votes.

The London School of Economics.

With reference to our report of Professor R. S. T. Chorley's lecture on "The Interpretation of Mercantile Statutes," in our issue of 18th February, at p. 120, we are indebted to Professor Chorley for drawing our attention to a small but not insignificant mistake in the paragraph relating to his comments on the recent case of *Stag Line, Ltd.* v. *Foscolo Mango* [1932] A.C. 328. The paragraph in question should have read "Until the recent case . . . ," and not "In the recent case . . . ." We regret that this mistake may have implied, on Professor Chorley's part, any disapproval of the decision in question.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, 28th March (chairman, Mr. E. F. Iwi), the subject for debate was: "That this House approves of the pacifist views of the modern generation." Dr. E. G. M. Fletcher opened in the affirmative; Mr. A. L. Ungoed-Thomas opened in the negative. The following members also spoke: Messrs. B. T. Ford, R. S. W. Pollard, R. D. C. Graham, J. F. Ginnett, E. A. G. Evans, A. J. T. Griffin (visitor), C. E. Lloyd, W. Fancourt Bell, H. J. Baxter, M. C. Batten, C. F. S. Spurrell, R. Langley Mitchell, Miss H. M. Cross, D. Jackley (visitor), Miss N. A. Hastie, V. B. Foden Pattinson, E. G. Wright (visitor) and J. C. Christian-Edwards. The opener having replied, the motion was carried by three votes. There were thirty-three members and six visitors present.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, 4th April (chairman, Mr. R. Langley Mitchell), the subject for debate was "That the case of *Shuttleworth* v. *Leeds Greyhound Association* [1933] 1 K.B. 400, was wrongly decided." Mr. W. M. Pleadwell opened in the affirmative; Mr. R. H. Kerrison opened in the negative. Mr. J. M. Staniland seconded in the affirmative; Mr. R. M. King seconded in the negative. The following members also spoke: Messrs. H. J. Baxter, E. F. Iwi, H. Peck, H. Trott and P. W. Iliff. The opener having replied, and the chairman having summed up, the motion was lost by eight votes. There were thirteen members present.

The Union Society of London.

A joint debate with the Gray's Inn Debating Society was held in the Middle Temple Common Room, on Wednesday, 29th March, the Vice-President (Mr. A. D. Russell-Clarke) was in the chair, and there were thirty-one members and visitors present. The motion: "That it is the duty of all to spend as much as possible," was proposed by Lt.-Col. W. Elliott Batt, C.M.G. (of the Gray's Inn Debating Society), and opposed by Mr. J. M. Symmons of the Union Society. There spoke in favour of the motion: Mr. John Wood (Gray's Inn), Miss Colwill (Gray's Inn), Mr. J. G. Baker and Mr. L. T. S. King, and against, Mr. Walter Stewart, Mr. H. Batene (Gray's Inn), Mr. Brian Winch, Mr. H. J. Sweeney, Mr. Hubert Moses and Capt. Ellershaw. The hon. proposer replied and on a division the motion was lost by five votes.

The Auctioneers' and Estate Agents' Institute.

A sessional evening meeting of the members of this Institute was held at 29, Lincoln's Inn-fields, W.C.2, on Thursday, 6th April, at 7 p.m., when Mr. H. Mordaunt Rogers (President) delivered a paper, in the form of a lantern lecture, entitled "The Making of a Connoisseur"; Part 12—The Romance of Old English and Irish Glass.

The Solicitors' Law Stationery Society, Ltd.: Annual Report.

The forty-fourth annual general meeting of the Society was held at 102/7 Fetter-lane, on Tuesday, 4th April, Sir Bernard E. H. Bircham, K.C.V.O., being in the chair.

After the Secretary had read the notice convening the meeting and the Auditors' report, the Chairman said:—

It is now my pleasure and duty to move the adoption of the Directors' report and the approval of the accounts.

In doing so, may I say that the past year has been a very difficult one. Economies have had to be made to meet the falling off in business due to the general depression in industry. Some reduction in staff has been necessary, and, as I think we may rightly claim to be good employers, this was a very disagreeable task, but it was carried out in as considerate a manner as possible, the management feeling it a great responsibility to discharge employees when there was so little chance of them obtaining work elsewhere. Every economy in other directions was made, and you will see from the accounts that, notwithstanding the reduction in sales as compared with 1931, the profits last year were slightly larger, namely, £38,849, as against £38,501. Our returns show clearly that the depression affected us most acutely in the first nine months of the year, and that after the Long Vacation business improved.

The year was an uneventful one from the Society's point of view, but I think I should refer to the purchase in November last of a journal called "Rating and Income Tax," mentioned in the Directors' report. This journal has been in existence for nine years, and should prove of interest to solicitors. It contains very full reports of all rating and income tax cases, the judgments being given verbatim. Since we have taken it over, I am pleased to say that the circulation has been considerably increased, and I think I may also claim that the paper has improved both in its usefulness and appearance. We shall be pleased to arrange for a specimen copy of the journal to be sent to any shareholder who wishes to see one.

With regard to the Directors' report, you will see that we recommend a dividend of 9 per cent., which is at the same rate as in respect of the previous year, and, under the articles of association, a bonus is again payable to our customers and staff. Out of the balance of profit we propose to write off the sum of £3,070 18s. 9d., which appears in the balance sheet as businesses purchased; and I should like here to remind shareholders of the fact that although we have during the past year spent thousands of pounds on the purchase of copyrights and the goodwill of businesses, we do not allow any figures representing these thousands to remain as a permanent asset on our balance sheet. We propose to add £2,500 to reserve, the same as last year, and to carry forward the sum of £10,221 16s. 11d., as against £10,579 16s. 2d. in 1931.

If you will now turn to the balance sheet, I think there are very few items to which I need call attention. On the liabilities side you will notice that the amount due to creditors is £31,768 18s. 4d.; that is a considerable reduction as compared with the 31st December, 1931. This reduction is largely due to the payment of our income tax under discount in advance of it being due. You will notice also that the reserve account amounts to £60,213 14s. 8d., or nearly half the amount of the subscribed capital.

Now, turning to the assets side, our cash at the bank and in hand is £15,994 12s., which is £1,300 better than in 1931. With regard to our investments, on the suggestion of our Auditors we have for the first time inserted the market value of them at the end of last year, which compares favourably with their cost. At cost they stood at £19,936 11s., which is £4,000 less than at the 31st December, 1931, but the difference is accounted for largely by the payment of income tax in advance which I have just mentioned. There is a slight increase in the amount owing to us by our debtors. The only other figure I think I need refer to on the assets side is that the value of the stocks, as compared with 31st December, 1931, is lower by £4,883, which the Directors consider all to the good.

Turning to the profit and loss account, you will notice that the expenses both at departments and head office are lower, as compared with 1931, by some £3,000, which is balanced by the gross profit on the other side of the account being less by approximately the same amount.

I think it may interest shareholders to know that the funds of the contributory staff pension scheme sanctioned by you at an extraordinary general meeting held in December, 1925, are valued, at the 31st December, 1932, at £85,409. The scheme is very much appreciated by the staff, and the trustees have been able to grant sixteen pensions which have proved a great boon to the recipients.

From the accounts before you I hope you will come to the conclusion that, having regard to the condition of trade prevailing all over the country, the result of our efforts during the past twelve months is fairly satisfactory. I am pleased to say that our records show that from the beginning of this year we have been doing considerably better business than during the same period of last year, and I can only express the hope that this improvement may continue.

In this connection I should like to say how much the Board owe to the managers and staff for the way in which the business of the Company is conducted. They all put their hearts into their work, and we think the shareholders ought to know this and appreciate it. It would be invidious to mention particular members of the management and staff, but I cannot help mentioning the "Commander-in-Chief," Mr. Cahusac, who has for so many years, and so successfully, guided the destinies of this Company. (Applause.)

I now have pleasure in moving the adoption of the report and the approval of the accounts, and I will ask Mr. Turner to second the motion. Afterwards I shall be pleased to answer any questions shareholders may put.

The motion was seconded by Mr. E. F. TURNER and carried unanimously.

On the motion of the Chairman, seconded by Mr. Turner, it was unanimously resolved to pay a dividend of 9 per cent. per annum, less income tax, and to distribute bonuses to the customers and the staff in accordance with the articles.

The retiring Directors, Mr. W. Alan Gillett and Mr. G. L. Whately, were re-elected.

The Auditors, Messrs. Fuller, Wise, Fisher & Co., were re-elected for the ensuing year at the same remuneration.

The meeting closed with a vote of thanks to the Chairman and Directors.

Rules and Orders.

THE RATING AND VALUATION ACT (PRODUCT OF RATES AND PRECEPTS) AMENDMENT RULES, 1933, DATED MARCH 24, 1933, MADE BY THE MINISTER OF HEALTH UNDER SECTIONS 9 AND 58 OF THE RATING AND VALUATION ACT, 1925, 15 & 16 GEO. 5. c. 90), FOR AMENDING THE RATING AND VALUATION ACT (PRODUCT OF RATES AND PRECEPTS) RULES, 1929.* 77,145.

The Minister of Health hereby certifies under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following rules should come into force immediately, and in exercise of the powers conferred on him by Sections 9 and 58 of the Rating and Valuation Act, 1925, and of all other powers enabling him in that behalf, hereby makes the following rules to come into operation forthwith as provisional rules :—

1. These rules may be cited as the Rating and Valuation Act (Product of Rates and Precepts) Amendment Rules, 1933, and shall be construed as one with the Rating and Valuation Act (Product of Rates and Precepts) Rules, 1929, hereinafter in these rules called "the principal rules."

2. The principal rules shall have effect as though in paragraph (2) of Rule 1 thereof the definition of "gross rate income" were amended by the insertion, after the word "recoverable" in paragraph (*b*) of the said definition, of the words "under Section 36 (2) of the Act, whether by virtue of Section 37 (10) of the Act or otherwise, or under or by virtue of Section 12 (6) of the Railways (Valuation for Rating) Act, 1930, or."

3. Copies of the principal rules printed under the authority of His Majesty's Stationery Office may be printed with any additions, omissions or substitutions directed to be made by these or any other amending rules, but with a footnote in each instance referring to such amending rules, and the principal rules so printed may be cited as the Rating and Valuation Act (Product of Rates and Precepts) Rules.

Given under the official seal of the Minister of Health this twenty-fourth day of March, nineteen hundred and thirty-three.

(L.S.) *W. A. Ross,*
Assistant Secretary,
Ministry of Health.

* S.R. & O. 1929, No. 12.

DEPARTMENTAL COMMITTEE ON HOUSING.

The Departmental Committee on Housing, which was recently set up by the Minister of Health, met on Friday, 31st March, under the chairmanship of Lord Moyne. Evidence was taken from Sir Enoch Hill, Mr. T. R. Chandler, and Mr. Walter Harvey, representing the National Association of Building Societies, and from Mr. R. P. P. Rowe, representing the Improved Tenements Association.

Legal Notes and News.

Honours and Appointments.

The Minister of Health, Lt.-Cdr. The Right Hon. Sir Hilton Young, M.P., has appointed Mr. H. A. DE MONTMORENCY, O.B.E., to be an Assistant Secretary of the Ministry of Health.

Professional Announcements.

(2s. per line.)

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

Wills and Bequests.

Mr. George Walton Hodgson, solicitor, of Westgate-in-Wharfedale, left £10,705, with net personalty £7,012.

Mr. John George Scott, solicitor, of Hadley Wood, left £28,599, with net personalty £25,537.

Mr. Ernest Prescott, solicitor, of Chilworth, Surrey and Serjeants' Inn, left £15,594, with net personalty £8,314.

Mr. Frederick Herbert King, solicitor, of London Wall, E.C., left £43,737, with net personalty £38,558.

Mr. John Herbert Dennis, solicitor, of Wisbech St. Peter, left £14,929, with net personalty, £12,950.

Mr. Edward Arthur Harley, solicitor, of Clifton, Bristol, left £14,362, with net personalty £6,647.

Mr. Arden Francis Terrell Shapland, solicitor, of Hove, left £11,888. with net personalty £6,293.

Mr. Cecil Hales Court, solicitor, of Gloucester-terrace, W., left £5,364, with net personalty £643.

Mr. Ralph Watson Graham, solicitor, of Morpeth, left £23,321, with net personalty £5,754.

Mr. Herbert Sheffield, solicitor, of Beverley, Yorks, left £11,367, with net personalty £9,651.

Mr. Herbert Deane Grimsdall, solicitor, of Crouch End, left £7,130, with net personalty £6,768.

Mr. William Frederick Hall, solicitor, of Streetly, Warwick and Walsall, left £11,465, with net personalty £1,312.

Mr. Cyril Herbert Kirby, solicitor, of Red Lion-square, and of Hampstead, left £10,272, with net personalty £9,485.

RECORDER'S CHARGE TO GRAND JURY.

In view of the unanimous recommendation of the Business of Courts Committee, contained in the interim report reviewed in our issue of the 11th March, that the Grand Jury (with the exception of the Middlesex Grand Jury) should be abolished at Assizes and quarter sessions, the remarks made by Sir Ernest Wild, K.C., in his charge to the Grand Jury at the Old Bailey on 28th March are of particular interest. The, learned recorder referred to the grand jury system as a safeguard for the liberty of the subject, and said that although the cases coming before the grand jury had been heard before experienced magistrates, a further safeguard was provided that no case should be tried until the grand jury had said it ought to be tried. Comment was also made upon the anomalies of the existing law with regard to the maximum sentences meted out for various crimes. Familiar examples were given to show that the old tendency to visit offences against property with savage punishment was to some extent still sanctioned by the legislature in so far as maximum sentences still on the statute book afford any indication. No great harm follows from this as it is, of course, open to the judiciary to award the penalty considered adequate in the circumstances. But it is otherwise with regard to the totally inadequate punishment which the law allows in the case of certain offences against the person. Referring to the comparatively clean calendar, the Recorder suggested that the reason might be that persons found guilty of foul offences had been adequately dealt with. "I use the word adequately," he said, "although it is inappropriate, because, owing to the fact that the maximum of punishment for various offences has not been revised for a long time, you get the most startling anomalies in the powers of a judge to deal with people found guilty of different offences." The present indefensible state of things might one day receive the attention of the Legislature.

SPRING ASSIZES.

The following days and places have been fixed for holding the Spring Assizes on the Northern and North-Eastern Circuits :—

NORTHERN CIRCUIT.—Mr. Justice Goddard and Mr. Justice Lawrence.—Tuesday 18th April, at Liverpool; Tuesday 2nd May, at Manchester.

NORTH-EASTERN CIRCUIT.—Mr. Justice Talbot and Mr. Justice du Parcq.—Monday, 1st May, at Leeds.

MEMORIAL TO SIR WILLIAM BULL.

The handsome wrought iron gates at the entrance to Ravenscourt Park erected by public subscription as a memorial to Sir William Bull, M.P. for Hammersmith for twenty-nine years, were unveiled by Viscount FitzAlan on Monday last.

A part of the memorial is a grant of £500 for the endowment of a Sir William Bull Memorial Scholarship to Birkbeck College, where Sir William was a student.

MAINTENANCE ARREARS.

NEW PROCEDURE IN DIVORCE COURT REGISTRY.

The President announced in the Divorce Court last Tuesday that there would be a new power in the Registry for inquiry into certain cases under the Debtors Act (Matrimonial Causes) Jurisdiction Order, 1932. The new procedure, which was published in *The Times*, on Thursday, 6th April, will be as follows :—

When a judge is satisfied by the evidence on a judgment summons that a husband defendant cannot comply with an alimony or maintenance order, and though not entitled to appear under the Poor Persons Rules yet has not the means to adopt the usual procedure for varying the original order, the judge may suspend the order pending an inquiry by a registrar.

It will be a condition for such reference to a registrar that the defendant shall give an undertaking (1) to lodge in the Divorce Registry within fourteen days from the date of the reference a statement setting forth his present capital and income from all sources and showing in what way and to what extent such capital or income has been reduced since the order was made; and (2) to lodge with the statement an application for an appointment before the registrar.

The registrar will inquire into the means of the parties and into the question whether the original order should be confirmed or varied, and if varied to what extent, and will make such order as he thinks fit or refer to the judge for the latter's decision the application or any question arising therefrom.

The method of conducting the inquiry will be in the registrar's discretion and no pleadings may be filed or delivered unless he so directs. Only in exceptional cases will a certificate for counsel be granted on such inquiries.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness. Part II.	GROUP I. MR. JUSTICE MAUGHAM. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
April 10	Jones	More	More	*Ritchie
„ 11	Ritchie	Hicks Beach	*Ritchie	*Andrews
„ 12	Blaker	Andrews	Andrews	*More
„ 13	More	Jones	More	Ritchie

	GROUP I. MR. JUSTICE BENNETT. Non-Witness.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
	Mr.	Mr.	Mr.	Mr.
April 10	Andrews	*Hicks Beach	Blaker	*Jones
„ 11	More	*Blaker	Jones	Hicks Beach
„ 12	Ritchie	*Jones	Hicks Beach	*Blaker
„ 13	Andrews	Hicks Beach	Blaker	Jones

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

The EASTER VACATION will commence on Friday, the 14th April, 1933, and terminate on Tuesday, 18th April, 1933, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 27th April, 1933.

	Div. Months.	Middle Price 5 April 1933.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	109	3 13 5	3 8 10
Consols 2½%	JAJO	76	3 5 9	—
War Loan 3½% 1952 or after	JD	101	3 9 4	3 8 7
Funding 4% Loan 1960-90	MN	111	3 12 1	3 7 6
Victory 4% Loan (Available for Estate Duty at par) Av. life 29 years	MS	109½	3 13 1	3 9 6
Conversion 5% Loan 1944-64	MN	116	4 6 2	3 4 11
Conversion 4½% Loan 1940-44	JJ	111	4 1 1	2 15 0
Conversion 3½% Loan 1961 or after	AO	100	3 10 0	3 10 0
Conversion 3% Loan 1948-53	MS	98¾	3 0 9	3 1 8
Local Loans 3% Stock 1912 or after	JAJO	88½	3 7 10	—
Bank Stock	AO	334½	3 11 9	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	78½	3 10 1	—
India 4½% 1950-55	MN	109	4 2 7	3 15 5
India 3½% 1931 or after	JAJO	87	4 0 6	—
India 3% 1948 or after	JAJO	75	4 0 0	—
Sudan 4½% 1939-73	FA	111	4 1 1	2 10 0
Sudan 4% 1974 Red. in part after 1950	MN	109	3 13 5	3 6 7
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	99½xd	3 0 4	3 1 0
COLONIAL SECURITIES				
*Australia (Commonw'th) 5% 1945-75	JJ	108	4 12 7	4 2 9
*Canada 3½% 1930-50	JJ	100	3 10 0	3 10 0
*Cape of Good Hope 3½% 1929-49	JJ	101	3 9 4	—
Natal 3% 1929-49	JJ	96	3 2 6	3 6 5
New South Wales 3½% 1930-50	JJ	96	3 12 11	3 16 5
*New South Wales 5% 1945-65	JD	108	4 12 7	4 3 9
New Zealand 4½% 1948-58	MS	108	4 3 4	3 15 10
*New Zealand 5% 1946	JJ	110	4 10 11	4 0 0
††Nigeria 5% 1950-60	FA	115	4 6 11	3 15 9
*Queensland 4% 1940-50	AO	100	4 0 0	4 0 0
*South Africa 5% 1945-75	JJ	112	4 9 3	3 14 9
*South Australia 5% 1945-75	JJ	108	4 12 7	4 2 9
*Tasmania 3½% 1920-40	JJ	100	3 10 0	3 10 0
Victoria 3½% 1929-49	AO	96	3 12 11	3 16 10
*W. Australia 4% 1942-62	JJ	101	3 19 2	3 17 2
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	87	3 9 0	—
Birmingham 4½% 1948-68	AO	114	3 18 11	3 6 0
*Cardiff 5% 1945-65	MS	110	4 10 11	3 18 9
Croydon 3% 1940-60	AO	93	3 4 6	3 8 0
*Hastings 5% 1947-67	AO	114	4 7 9	3 14 0
Hull 3½% 1925-55	FA	99	3 10 8	3 11 4
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	99	3 10 8	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	74	3 7 7	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	88	3 8 2	—
Manchester 3% 1941 or after	FA	87	3 9 0	—
Metropolitan Consd. 2½% 1920-49	MJSD	94	2 13 2	2 19 7
Metropolitan Water Board 3% "A" 1963-2003	AO	90	3 6 8	3 7 6
Do. do. 3% "B" 1934-2003	MS	91	3 5 11	3 6 8
Do. do. 3% "E" 1953-73	JJ	94	3 3 10	3 5 5
*Middlesex C.C. 3½% 1927-47	FA	101	3 9 4	—
Do. do. 4½% 1950-70	MN	113xd	3 19 8	3 10 3
Nottingham 3% Irredeemable	MN	86xd	3 9 9	—
*Stockton 5% 1946-66	JJ	113	4 8 6	3 14 4
ENGLISH RAILWAY PRIOR CHARGES				
Gt. Western Rly. 4% Debenture	JJ	102½	3 18 1	—
Gt. Western Rly. 5% Rent Charge	FA	115½	4 6 7	—
Gt. Western Rly. 5% Preference	MA	70½	7 1 10	—
‡L. & N.E. Rly. 4% Debenture	JJ	83⅓	4 15 10	—
‡L. & N.E. Rly. 4% 1st Guaranteed	FA	66½	6 0 4	—
London Electric 4% Debenture	JJ	103½	3 17 4	—
‡L. Mid. & Scot. Rly. 4% Debenture	JJ	93½	4 5 7	—
‡L. Mid. & Scot. Rly. 4% Guaranteed	MA	76½	5 4 7	—
Southern Rly. 4% Debenture	JJ	102⅛	3 18 1	—
Southern Rly. 5% Guaranteed	MA	107½	4 13 0	—
Southern Rly. 5% Preference	MA	80½	6 4 3	—

*Not available to Trustees over par. ††Not available to Trustees over 115.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.

‡These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Companies' Ordinary Stocks for the past year.

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Scene at Out-Patients' Department.

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Further particulars may be had of H. H. Vowles, Esq., Solicitor, or of the Auctioneers, both of Gloucester.

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